

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID LEE SPOTTED EAGLE,

Defendant.

CR-11-87-GF-BMM-01

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS TO REVOKE
DEFENDANT'S SUPERVISED RELEASE**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on July 11, 2016. (Doc. 63.) Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on July 6, 2016. (Doc. 62.) Judge Johnston held an evidentiary hearing. Both parties provided testimony and

argument. Judge Johnston determined that the Government met its burden to establish that Spotted Eagle violated the conditions of his release.

The violation proves serious and warrants revocation of Spotted Eagle's release. Judge Johnston has recommended that the Court revoke Spotted Eagle's supervised release and commit Spotted Eagle to the custody of the Bureau of Prisons for four months. (Doc. 63 at 5.) Judge Johnston further has recommended that Spotted Eagle be sentenced to 29 months of supervised release. *Id.* Judge Johnston has recommended that the court impose the conditions previously imposed. *Id.*

Spotted Eagle's violation qualifies as a Grade C violation. His criminal history category equals I. Spotted Eagle's underlying offense qualifies as a Class C felony. The Court could impose a sentence of 24 months imprisonment and a supervised release term of 33 months, less any custody time imposed. The United States Sentencing Guidelines call for three to nine months in custody.

The Court finds no clear error in Judge Johnston's Findings and Recommendations. Spotted Eagle's violation of his conditions represents a serious breach of the Court's trust. A sentence of four months of imprisonment followed by 29 months of supervised release represents a sufficient, but not greater than necessary, sentence.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 63) is ADOPTED IN FULL.

IT IS FURTHER ORDERED that Defendant David Lee Spotted Eagle be sentenced to four months imprisonment followed by 29 months of supervised release. The conditions previously imposed shall be continued.

DATED this 27th day of July, 2016



Brian Morris
United States District Court Judge